IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 177 OF 2005

Mr. Ravi Shankar Singh
Bhadauria and another. ... Applicant

versus

Ram S. Singh Parihar
Ponda, Goa. ... Respondent

Mr. I. Aga, Advocate for the Applicant.

Mr. P. P. Singh, Advocate for the Respondent.

CORAM : N. A. BRITTO, J.

DATE : 27TH APRIL,2006

P.C.:-

Heard Mr. I. Aga, the learned Counsel on behalf of the applicants/accused and Mr. P. P. Singh, the learned Counsel on behalf of the respondent/complainant.

The applicants who are the accused in C.C. No.103/P/2004/D have invoked the extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 to quash the complaint and particularly the Order dated

18-12-2004 of the learned J.M.F.C., Ponda issuing process against them under Sections 504 and 506(ii) r/w 34 I.P.C.

The allegation of the said complainant was that on 6-9-2004 accused no.1 telephoned him from Mumbai and abused and threatened him whilst accused no.2 did the same on 8-9-2004.

The Order issuing process is revisable. It has been submitted by Mr. Aga that there are extraordinary circumstances in the case for this Court to quash the said process in extraordinary jurisdiction. In my view, there are none. It is now well settled by this Court that a revision petition is maintainable and that too to the Court of Sessions against an Order issuing process. In this context, reference could be made to the Judgment dated 6-4-2005 in Criminal Miscellaneous Application No.54/2005(at Panaji) and to Judgment dated 8/21-6-2005(at Bombay). The question is not one of lack of jurisdiction but one of self imposed limitation in that when an alternate remedy is available by way of revision the party ought to have avail of the said remedy.

In the light of that, this application shall be returned to the applicants/accused to be filed before the Sessions Court at

Panaji. In case the same is filed within a period of two weeks from today after the same is returned to the applicants, the learned Sessions Judge is directed to treat the same as a revision petition against the Order of the learned J.M.F.C. issuing process against the accused and dispose of the same in accordance with law.

The parties to appear before the learned Sessions Judge, Panaji on 5-6-2006 at 10.00 a.m. The complainant to obtain further stay of the proceedings from the learned Sessions Judge and till the date of presentation of the petition to the learned Sessions Judge the stay granted by this Court shall continue to operate.

N. A. BRITTO, J.

RD